



9110-04-P

## **DEPARTMENT OF HOMELAND SECURITY**

### **Coast Guard**

### **33 CFR Part 100**

**[Docket Number USCG-2017-0552]**

**RIN 1625-AA08**

### **Special Local Regulation; Atlantic Ocean, Ft. Lauderdale, FL**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Final rule.

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**SUMMARY:** The Coast Guard is establishing a recurring special local regulation for navigable waters of the Atlantic Ocean in the vicinity of Fort Lauderdale, FL for the Fort Lauderdale Grand Prix of the Seas. The Fort Lauderdale Grand Prix of the Seas race course is located east of South Beach Park and North of the Port Everglades inlet. Approximately 100 high-speed personal watercraft will be participating in the event. The special local regulation is needed to protect personnel, vessels, and the marine environment from potential hazards during the race event. All vessels and persons in the regulated area must follow the direction of Coast Guard personnel, law enforcement, and race officials.

**DATES:** This rule is effective [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

**ADDRESSES:** To view documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, type USCG-2017-0552 in the "SEARCH" box and click "SEARCH." Click on Open Docket Folder on the line associated with this rule.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this rule, call or email Petty Officer Mara J. Brown, Sector Miami Waterways Management Division, U.S. Coast Guard; telephone (305) 535-4317, email Mara.J.Brown@uscg.mil.

**SUPPLEMENTARY INFORMATION:**

**I. Table of Abbreviations**

CFR	Code of Federal Regulations
DHS	Department of Homeland Security
FR	<b>Federal Register</b>
NPRM	Notice of proposed rulemaking
§	Section
U.S.C.	United States Code

**II. Background Information and Regulatory History**

On June 7, 2017, the company Powerboat P1-USA, LLC notified the Coast Guard that it will be conducting the Ft. Lauderdale Grand Prix of the Seas race annually. This event will occur yearly on one weekend (Friday, Saturday, and Sunday) in November. The race course will be located directly east of South Beach Park in Ft. Lauderdale, FL. The special local regulation is intended to protect personnel, vessels, and the marine environment. On September 6, 2017, the Coast Guard published a notice of proposed rulemaking (NPRM) entitled, “Special Local Regulation; Atlantic Ocean, Ft. Lauderdale, FL” (82 FR 42050). Therein we stated why we issued the NPRM, and invited comments on our proposed regulatory action related to this race. During the comment period that ended October 6, 2017, we received five comments.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Delaying the effective date of this rule would be impracticable because immediate action is needed to respond to the potential safety hazards associated with this event which will take place this year on November

17, 2017.

### **III. Legal Authority and Need for Rule**

The Coast Guard is issuing this rule under authority in 33 U.S.C. 1233. The Captain of the Port Miami (COTP) has determined that that potential hazards associated with the high speeds of the participants during the races would be a safety concern for anyone who would enter the race area. The purpose of this rulemaking is to ensure the safety of vessels and the navigable waters within the established race area, marked with buoys.

### **IV. Discussion of Comments, Changes, and the Rule**

As noted above, we received five comments on our NPRM published September 6, 2017. All comments were in favor of this regulation. There are no changes in the regulatory text of this rule from the proposed rule in the NPRM.

This rule establishes a special local regulation for this event occurring annually on one weekend (Friday, Saturday, and Sunday) in November, with the precise date of the event each year to be published in a notice of enforcement in the **Federal Register**. The special local regulation covers all navigable waters within the established race area, marked with buoys, approximately one mile north of the Port Everglades inlet. The duration of the zone is intended to protect personnel, vessels, and the marine environment in the navigable waters during the Fort Lauderdale Grand Prix of the Seas race event. Only those vessels participating in the event may enter, transit through, anchor in, or remain within the regulated area, and all vessels and persons in the regulated area must follow the direction of Coast Guard personnel, law enforcement, and race officials.

## **V. Regulatory Analyses**

We developed this rule after considering numerous statutes and Executive orders related to rulemaking. Below we summarize our analyses based on a number of these statutes and Executive orders, and we discuss First Amendment rights of protestors.

### **A. Regulatory Planning and Review**

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. Executive Order 13771 directs agencies to control regulatory costs through a budgeting process. This rule has not been designated a “significant regulatory action,” under Executive Order 12866. Accordingly, this rule has not been reviewed by the Office of Management and Budget (OMB), and pursuant to OMB guidance it is exempt from the requirements of Executive Order 13771.

This regulatory action determination is based on the size, location, and time-of-year of the special local regulation. Vessel traffic will be able to safely transit around this regulated area, which will impact a small designated area of the Atlantic Ocean in Fort Lauderdale, FL, directly adjacent to the shore, for three days.

### **B. Impact on Small Entities**

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term “small entities” comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard received no comments from the Small Business Administration on this rulemaking. The Coast Guard certifies under 5 U.S.C.

605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

While some owners or operators of vessels intending to transit the safety zone may be small entities, for the reasons stated in section V.A above, this rule will not have a significant economic impact on any vessel owner or operator.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the FOR FURTHER INFORMATION CONTACT section.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1-888-REG-FAIR (1-888-734-3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

#### C. Collection of Information

This rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).

#### D. Federalism and Indian Tribal Governments

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the

States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

Also, this rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. If you believe this rule has implications for federalism or Indian tribes, please contact the person listed in the FOR FURTHER INFORMATION CONTACT section.

#### E. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

#### F. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023-01 and Commandant Instruction M16475.ID, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321-4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively

have a significant effect on the human environment. This rule involves a special local regulation lasting three days that will impact a small area in the vicinity of the Port Everglades Inlet. It is categorically excluded from further review under paragraph 34(h) of Figure 201 of the Commandant Instructions. A Record of Environmental Consideration supporting this determination is available in the docket where indicated under ADDRESSES.

#### G. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the FOR FURTHER INFORMATION CONTACT section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

#### **List of Subjects in 33 CFR Part 100**

Marine safety, Navigation (water), Reporting and recordkeeping requirements, Waterways

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 100 as follows:

#### **PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS**

1. The authority citation for part 100 continues to read as follows:

**Authority:** 33 U.S.C. 1233.

2. Add § 100.723 to read as follows:

§ 100.723 Special Local Regulation; Fort Lauderdale Grand Prix of the Seas; Fort Lauderdale, FL.

(a) Location. The following regulated area is established as a special local regulation. All navigable waters contained within an imaginary line connecting the following points: beginning at Point 1 in position 26°6'21"N, 080°5'51"W; thence west to Point 2 in position 26°6'21"N,

080°6'13"W; thence north to Point 3 in position 26°6'57"N, 080°6'13"W; thence east to Point 4 in position 26°6'57"N, 080°5'52"W, thence back to origin at point 1. All coordinates are North American Datum 1983.

(b) Definition. The following definitions apply to this section:

(1) The term “designated representative” means Coast Guard Patrol Commanders, including Coast Guard coxswains, petty officers, and other officers operating Coast Guard vessels, and Federal, State, and Local officers designated by or assisting the Captain of the Port Miami in the enforcement of the regulated areas.

(2) The term “Patrol Commander” means a commissioned, warrant, or petty officer of the Coast Guard who has been designated by the respective Coast Guard Sector Commander to enforce these regulations.

(3) The term “spectators” means all persons and vessels not registered with the event sponsor as participants or official patrol vessels.

(c) Regulations. (1) All non-participant persons and vessels are prohibited from entering, transiting through, anchoring in, or remaining within the regulated area unless authorized by the Captain of the Port Miami or a designated representative.

(2) Persons and vessels desiring to enter, transit through, anchor in, remain within or transit in excess of wake speed within any of the regulated area may contact the Captain of the Port Miami by telephone at (305) 535-8701, or a designated representative via VHF-FM radio on channel 16 to request authorization. If authorization is granted, all persons and vessels receiving such authorization must comply with the instructions of the Captain of the Port Miami or a designated representative.

(3) The Coast Guard will use all appropriate means to notify the public in advance of an



event of the enforcement of the regulations in this section to include publishing a Notice of Enforcement in the FEDERAL REGISTER and through the local Notice to Mariners and Broadcast Notice to Mariners.

(d) Enforcement date. This section will be enforced annually on a weekend (Friday, Saturday and Sunday) in the month of November.

Dated: October 23, 2017

J.H.D. Solomon  
Captain, U.S. Coast Guard  
Captain of the Port Miami

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